

Adopted	Rejected
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COMMITTEE REPORT

YES:	12
NO:	0

MR. SPEAKER:

*Your Committee on Environmental Affairs, to which was referred Senate Bill 461, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

- 1 Page 9, between lines 3 and 4, begin a new paragraph and insert:
- 2 "SECTION 16. IC 13-17-3-9 IS AMENDED TO READ AS
- 3 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9. (a) The
- 4 commissioner shall assist and cooperate with other groups interested
- 5 in and affected by air pollution.
- 6 (b) The commissioner ~~may~~ **shall** do the following:
- 7 (1) Advise, consult, and cooperate with:
- 8 (A) other state agencies;
- 9 (B) towns, cities, and counties;
- 10 (C) industries;
- 11 (D) other states;
- 12 (E) the federal government; and
- 13 (F) affected groups;
- 14 in the prevention and control of new and existing air
- 15 contamination sources within Indiana.
- 16 (2) Encourage and conduct studies, investigations, and research

relating to the following:

(A) Air pollution.

(B) The causes, effects, prevention, control, and abatement of air pollution.

(3) Collect and disseminate information relating to the following:

(A) Air pollution.

(B) The prevention and control of air pollution.

(4) Encourage voluntary cooperation by persons, towns, cities, and counties or other affected groups in restoring and preserving a reasonable degree of purity of air within Indiana.

(5) Upon request, provide technical assistance to towns, cities, or counties requesting technical assistance for the furtherance of air pollution control.

~~(5) (6)~~ Encourage authorized air pollution agencies of towns, cities, and counties to handle air pollution problems within their respective jurisdictions to the greatest extent possible.

~~(6) Upon request, provide technical assistance to towns, cities, or counties requesting technical assistance for the furtherance of air pollution control.~~

(7) Enter into a contractual agreement with a local air pollution control agency established under IC 13-17-12-1 whenever the local air pollution control agency is willing to enter into the contract. The contract must require the department to do the following:

(A) Advise, consult, and cooperate with the local air pollution control agency.

(B) Provide technical assistance to the local air pollution control agency.

(C) Authorize the local air pollution control agency to undertake air pollution control activities, including:

(i) regional ambient air quality monitoring; and

(ii) within the local air pollution control agency's jurisdiction, issuing operating permits and operating permit revisions, performing compliance inspections, responding to complaints and emergencies, and initiating enforcement actions on behalf the department.

(D) Authorize, as an alternative to actions described in clause (C), the local air pollution control agency to:

1 (i) issue operating permits and operating permit
2 revisions;

3 (ii) perform compliance inspections;

4 (iii) respond to complaints and emergencies; and

5 (iv) initiate enforcement actions;

6 as authorized by local ordinances that are consistent with
7 or more restrictive than the air pollution control laws.

8 (E) Provide, from money available to the department to
9 carry out the air pollution control laws, fair monetary
10 compensation to the local air pollution control agency for
11 the air pollution control work performed on behalf of the
12 department.

13 (F) Provide that the source of the monetary compensation
14 provided to the local air pollution control agency may
15 originate from:

16 (i) United States Environmental Protection Agency
17 federal grant funding for the purpose of air pollution
18 control program support activities funded under Section
19 105 of the federal Clean Air Act (42 U.S.C. 7405), as
20 further described in Section 66.001 of the Catalog of
21 Federal Domestic Assistance;

22 (ii) United States Environmental Protection Agency
23 federal grant funding for the purpose of PM2.5 air
24 monitoring activities funded under Section 103 of the
25 federal Clean Air Act (42 U.S.C. 7403), as further
26 described in Section 66.034 of the Catalog of Federal
27 Domestic Assistance;

28 (iii) annual operating fees established by 326 IAC 2 or its
29 successor;

30 (iv) the environmental management special fund
31 established by IC 13-14-12; and

32 (v) other revenue sources as approved by the governor
33 and the budget agency.

34 (G) Provide that the monetary compensation provided to
35 the local air pollution control agency must be at least
36 sufficient to cover the staffing and operating costs the local
37 air pollution control agency incurred for air pollution
38 control work performed on behalf of the department.

(H) Provide that the monetary compensation provided to local air pollution control agencies shall be tied to the Consumer Price Index and shall be reviewed and adjusted within thirty (30) days after the release of the January CPI-U issued by the United States Bureau of Labor Statistics.

(I) Provide that if a local air pollution control agency applies for grant funding from the United States Environmental Protection Agency for the purposes of activities described in clause (F)(i) or (F)(ii), the commissioner shall approve and facilitate the grant funding agreement between the United States Environmental Protection Agency and the local air pollution control agency.

~~(7)~~ **(8)** Represent the state in all matters pertaining to plans, procedures, or negotiations for interstate compacts in relation to the control of air pollution.

~~(8)~~ **(9)** Accept and administer grants or other money or gifts for the purpose of carrying out any of the functions of air pollution control laws.

SECTION 17. IC 13-17-12-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. **(a)** Air pollution control laws do not prevent towns, cities, or counties from:

- (1) enforcing local air pollution ordinances consistent with air pollution control laws; or
- (2) adopting or enforcing more restrictive ordinances to further the expressed purposes of air pollution control laws.

(b) A county, city, or town that adopts an ordinance described in subsection (a) must establish or designate an agency to act as an air pollution control agency to:

- (1) enforce ordinances adopted under this section; and**
- (2) undertake air pollution control efforts on behalf of the department of environmental management under a contract entered into under IC 13-17-3-9.**

The agency may be the agency established to administer a cooperative air pollution control program under section 3 of this chapter.

SECTION 18. IC 13-17-12-4 IS AMENDED TO READ AS

1 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. An air pollution
 2 control agency **that has entered into a contract described in**
 3 **IC 13-17-3-9(b)(7)** shall submit annual reports as requested by the
 4 department.

5 SECTION 19. IC 13-17-12-6 IS AMENDED TO READ AS
 6 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. A county, ~~having a~~
 7 ~~consolidated~~ city, **or town (except an excluded city in a county**
 8 **having a consolidated city)** may ~~subject to department approval,~~
 9 establish an air permit program that complies with:

- 10 (1) the federal Clean Air Act (42 U.S.C. 7401 et seq.), as
 11 amended by the Clean Air Act Amendments of 1990 (P.L.
 12 101-549);
- 13 (2) regulations implementing Title V of the Clean Air Act
 14 Amendments of 1990 (40 CFR 70 et seq.); ~~and~~
- 15 (3) rules adopted by the board; **and**
- 16 **(4) any more restrictive ordinances adopted by the county,**
 17 **city, or town to further the expressed purposes of the air**
 18 **pollution control laws."**

19 Page 16, between lines 1 and 2, begin a new paragraph and insert:

20 "SECTION 33. IC 14-33-5-21 IS AMENDED TO READ AS
 21 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 21. (a) If the board
 22 issues revenue bonds for the collection, treatment, and disposal of
 23 sewage and liquid waste, the board may do the following:

- 24 **(1) Subject to sections 21.1 and 21.2 of this chapter,** establish
 25 just and equitable rates and charges and use the same basis for the
 26 rates as provided in IC 36-9-23-25 through IC 36-9-23-29.
- 27 (2) Collect and enforce the rates, beginning with the
 28 commencement of construction as provided in IC 36-9-23.
- 29 (3) Establish rules and regulations.
- 30 (4) Require connection to the board's sewer system of any
 31 property producing sewage or similar waste and require
 32 discontinuance of use of privies, cesspools, septic tanks, and
 33 similar structures. The board may enforce this requirement by
 34 civil action in circuit or superior court as provided in
 35 IC 36-9-23-30.
- 36 (5) Provide for and collect a connection charge to the board's
 37 sewer system as provided in IC 36-9-23-25 through
 38 IC 36-9-23-29.

- 1 (6) Contract for treatment of the board's sewage and pay a fair and
 2 reasonable connection fee or rate for treatment, or a combination
 3 of both, as provided in IC 36-9-23-16.
- 4 (7) Secure the bonds by a trust indenture as provided in
 5 IC 36-9-23-22.
- 6 (8) Create a sinking fund for the payment of principal and interest
 7 and accumulate reasonable reserves as provided in IC 36-9-23-21.
- 8 (9) Issue temporary revenue bonds to be exchanged for definite
 9 revenue bonds as provided in IC 36-9-23-17 through
 10 IC 36-9-23-20.
- 11 (10) Issue additional revenue bonds as part of the same issue if
 12 the issue does not meet the full cost of the project for which the
 13 bonds were issued as provided in IC 36-9-23-17 through
 14 IC 36-9-23-20.
- 15 (11) Issue additional revenue bonds for improvements,
 16 enlargements, and extensions as provided in IC 36-9-23-18.
- 17 (12) Covenant with the holders of the revenue bonds for the
 18 following:
 - 19 (A) Protection of the holders concerning the use of money
 20 derived from the sale of bonds.
 - 21 (B) The collection of necessary rates and charges and
 22 segregation of the rates and charges for payment of principal
 23 and interest.
 - 24 (C) Remedy if a default occurs.
- 25 The covenants may extend to both repayment from revenues and
 26 other money available to the district by other statute as provided
 27 in IC 36-9-23.
- 28 (b) In the same manner as provided by IC 36-9-23, the rates or
 29 charges made, assessed, or established by the district are a lien on a lot,
 30 parcel of land, or building that is connected with or uses the works by
 31 or through any part of the sewage system of the district. The liens:
 - 32 (1) attach;
 - 33 (2) are recorded;
 - 34 (3) are subject to the same penalties, interest, and reasonable
 35 attorney's fees on recovery; and
 - 36 (4) shall be collected and enforced;
- 37 in substantially the same manner as provided in IC 36-9-23-31 through
 38 IC 36-9-23-32.

SECTION 34. IC 14-33-5-21.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 21.1. (a) This section applies to a campground that:**

(1) is connected with the sewage works of a district established for the purpose described in IC 14-33-1-1(a)(5); or

(2) uses or is served by the sewage works of a district established for the purpose described in IC 14-33-1-1(a)(5).

(b) Beginning September 1, 2009, if a campground is billed for sewage service at a flat rate under section 21(a)(1) of this chapter, the campground may instead elect to be billed for the sewage service under this subsection by installing, at the campground's expense, a meter to measure the actual amount of sewage discharged by the campground into the district's sewers. If a campground elects to be billed by use of a meter:

(1) the rate charged by the district's board for the metered sewage service may not exceed the rate charged to residential customers for equivalent usage; and

(2) the amount charged by the board for the campground's monthly sewage service for the period beginning September 1 and ending May 31 must be equal to the greater of:

(A) the actual amount that would be charged for the sewage discharged during the month by the campground as measured by the meter; or

(B) the lowest monthly charge paid by the campground for sewage service during the previous period beginning June 1 and ending August 31.

(c) If a campground does not install a meter under subsection (b) and is billed for sewage service at a flat rate under section 21(a)(1) of this chapter, for a calendar year beginning after December 31, 2009, each campsite at the campground may not equal more than one-third (1/3) of one (1) resident equivalent unit. The basic monthly charge for the campground's sewage service must be equal to the number of the campground's resident equivalent units multiplied by the rate charged by the board for a resident unit.

(d) The board may impose additional charges on a campground under subsections (b) and (c) if the board incurs additional costs

that are caused by any unique factors that apply to providing sewage service for the campground, including, but not limited to:

(1) the installation of:

(A) oversized pipe; or

(B) any other unique equipment;

necessary to provide sewage service for the campground; and

(2) concentrations of biochemical oxygen demand (BOD) that exceed federal pollutant standards.

SECTION 35. IC 14-33-5-21.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 21.2. (a) As used in this section, "commission" refers to the Indiana utility regulatory commission created by IC 8-1-1-2.

(b) This section applies to an owner or operator of a campground described in section 21.1(b) or 21.1(c) of this chapter who disputes:

(1) that the campground is being billed at rates charged to residential customers for equivalent usage as required by section 21.1(b)(1) of this chapter;

(2) the number of resident equivalent units determined for the campground under section 21.1(c) of this chapter; or

(3) that any additional charges imposed on the campground under section 21.1(d) of this chapter are reasonable or nondiscriminatory.

(c) If an owner or operator:

(1) makes a good faith attempt to resolve a disputed matter described in subsection (b)(1) through (b)(3) through:

(A) any grievance or complaint procedure prescribed by the board; or

(B) other negotiations with the board; and

(2) is dissatisfied with the board's proposed disposition of the matter;

the owner or operator may file with the commission a written request for review of the disputed matter and the board's proposed disposition of the matter to be conducted by the commission's appeals division established under IC 8-1-2-34.5(b). The owner or operator must file a request under this section with the commission and the board not later than seven (7) days after receiving notice

1 of the board's proposed disposition of the matter.

2 (d) The commission's appeals division shall provide an informal
3 review of the disputed matter. The review must include a prompt
4 and thorough investigation of the dispute. Upon request by either
5 party, or on the division's own motion, the division shall require
6 the parties to attend a conference on the matter at a date, time, and
7 place determined by the division.

8 (e) In any case in which the basic monthly charge for a
9 campground's sewage service is in dispute, the owner or operator
10 shall pay, on any disputed bill issued while a review under this
11 section is pending, the basic monthly charge billed during the year
12 immediately preceding the year in which the first disputed bill is
13 issued. If the basic monthly charge paid while the review is pending
14 exceeds any monthly charge determined by the commission in a
15 decision issued under subsection (f), the board shall refund or
16 credit the excess amount paid to the owner or operator. If the basic
17 monthly charge paid while the review is pending is less than any
18 monthly charge determined by the appeals division or commission
19 in a decision issued under subsection (f), the owner or operator
20 shall pay the board the difference owed.

21 (f) After conducting the review required under subsection (d),
22 the appeals division shall issue a written decision resolving the
23 disputed matter. The division shall send a copy of the decision to:

- 24 (1) the owner or operator of the campground; and
25 (2) the board;

26 by United States mail. Not later than seven (7) days after receiving
27 the written decision of the appeals division, either party may make
28 a written request for the dispute to be formally docketed as a
29 proceeding before the commission. Subject to the right of either
30 party to an appeal under IC 8-1-3, the decision of the commission
31 is final.

32 (g) The commission shall maintain a record of all requests for
33 a review made under this section. The record must include:

- 34 (1) a copy of the appeals division's and commission's decision
35 under subsection (f) for each dispute filed; and
36 (2) any other documents filed with the appeals division or
37 commission under this section.

38 The record must be made available for public inspection and

1 **copying in the office of the commission during regular business**
 2 **hours under IC 5-14-3.**

3 **(h) The commission may adopt rules under IC 4-22-2 to**
 4 **implement this section."**

5 Page 16, between lines 39 and 40, begin a new paragraph and insert:

6 "SECTION 37. IC 32-21-6-3 IS AMENDED TO READ AS
 7 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. As used in this
 8 chapter, "psychologically **or environmentally** affected property"
 9 includes real estate or a dwelling that is for sale, rent, or lease and to
 10 which one (1) or more of the following facts or a reasonable suspicion
 11 of facts apply:

12 (1) That an occupant of the property was afflicted with or died
 13 from a disease related to the human immunodeficiency virus
 14 (HIV).

15 (2) That an individual died on the property.

16 (3) That the property was the site of:

17 (A) a felony under IC 35;

18 (B) criminal gang (as defined in IC 35-45-9-1) activity;

19 (C) the discharge of a firearm involving a law enforcement
 20 officer while engaged in the officer's official duties; or

21 (D) the illegal manufacture or distribution of a controlled
 22 substance."

23 Page 17, line 1, after "psychologically" insert "**or**
 24 **environmentally**".

25 Page 17, between lines 6 and 7, begin a new paragraph and insert:

26 "SECTION 39. IC 32-21-6-6 IS AMENDED TO READ AS
 27 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. An owner or agent
 28 is not liable for the refusal to disclose to a transferee:

29 (1) that a dwelling or real estate is a psychologically **or**
 30 **environmentally** affected property; or

31 (2) details concerning the psychologically **or environmentally**
 32 affected nature of the dwelling or real estate.

33 However, an owner or agent may not intentionally misrepresent a fact
 34 concerning a psychologically **or environmentally** affected property in
 35 response to a direct inquiry from a transferee.

36 SECTION 40. IC 36-8-2-13 IS AMENDED TO READ AS
 37 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 13. A municipality may
 38 exercise powers granted by sections 4, 5, ~~and~~ 6, **and 8** of this chapter

1 in areas within four (4) miles outside its corporate boundaries."
 2 Page 17, between lines 32 and 33, begin a new line block indented
 3 and insert:
 4 **"(6) Whether to establish a state registry of environmental**
 5 **restrictive covenants and ordinances.**
 6 **(7) The progress of rulemaking concerning antidegradation of**
 7 **surface waters.**
 8 **(8) The efficacy of changes in enforcement programs at the**
 9 **department of environmental management.**
 10 **(9) The ability of local governments to adopt environmental**
 11 **protection and public health ordinances.**
 12 **(10) The risk of infectious disease transmission from**
 13 **pathogens in livestock manure at concentrated animal feeding**
 14 **operations and confined feeding operations."**
 15 Page 17, line 33, delete "(6)" and insert "(11)".
 16 Renumber all SECTIONS consecutively.
 (Reference is to SB 461 as reprinted February 6, 2009.)

and when so amended that said bill do pass.

Representative Dvorak